

Congress of the United States
Washington, DC 20515

April 27, 2010

The Honorable James L. Oberstar
Chairman
Committee on Transportation and
Infrastructure
2165 Rayburn House Office Building
Washington, DC 20515

The Honorable John L. Mica
Ranking Member
Committee on Transportation and
Infrastructure
2163 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Oberstar and Ranking Member Mica:

We write to express support for federal legislation that would allow our nation's major container ports to implement environmental standards above current federal requirements. With an estimated 87 million Americans living in port adjacent communities which fail to meet federal air quality standards, the pollution generated by ports and port trucking is an issue that warrants our attention. We commend your leadership in developing a new national transportation policy framework and would like to add to it this important harbor trucking issue.

Fortunately, ports supported by their local governments have begun taking the initiative to address a highly polluting drayage system. We know you share our congratulations to the Port of Los Angeles for the success of its Clean Truck Program. In just one year, the program has reportedly replaced nearly 6,000 dirty diesel trucks with clean diesel and alternative energy vehicles; eliminating 30 tons of diesel particulate matter which will reduce diesel particulate pollution by an estimated 70 percent. This is equivalent to removing 200,000 automobiles from the road. We are unaware of another truck emissions reductions program which has had such remarkable success in such a short time period.

Unfortunately, the program has been challenged in federal court. The current motor carrier statute enacted as part of the Federal Aviation Administration Authorization Act of 1994 (FAAAA) allows state and local entities to regulate trucking companies only for "safety" related programs, and an injunction has been issued to temporarily block the City's ability to directly enforce through concession agreements a ban on motor carriers from bringing dirty trucks into the Port. The court injunction also prevents the Port from enforcing economic requirements that will ensure expensive new clean trucks will be properly maintained by ending the practice of improperly designating employees as "independent contractors."

This requirement was determined to be the best way to ensure that the cost of compliance with environmental regulations was borne by trucking companies instead of drivers. The consequence has been devastating on workers who are seeing their incomes fall by nearly half because trucking companies continue to misclassify their drivers as "independent contractors" and require them to pay for the operation and maintenance of new vehicles. This in turn threatens the efficacy of the regulations and the tremendous environmental progress made by the Clean Truck Program.

This is not only a California issue, but a national one. Ports around the country – like the port terminals in New York and New Jersey, Oakland, Seattle and Miami – are grappling with similar obstacles presented by port trucking, but are unable to implement a comprehensive program given the legal uncertainty and injunction against the program in Los Angeles.

Based on these recent events, we believe that federal law needs to be updated to ensure that ports can enact and enforce Clean Truck programs. We stand ready to work with you to allow ports to establish sustainable green growth programs that work for business, local communities and workers.

Sincerely,

Jerrald Nadler

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Henry A. Waxman

George Miller

Barack Sherman

Harry L. Ackerman

Robert L. Aronson

John E. Sweeney

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Pete Frank

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L. J. Welch

Susan D. Davis

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